

**C. Marie Eckert, OSB No. 883490**

marie.eckert@millernash.com

**Suzanne C. Lacampagne, OSB No. 951705**

suzanne.lacampagne@millernash.com

MILLER NASH GRAHAM & DUNN LLP

3400 U.S. Bancorp Tower

111 S.W. Fifth Avenue

Portland, Oregon 97204

Telephone: (503) 224-5858

Facsimile: (503) 224-0155

**Frank R. Volpe**

fvolpe@sidley.com

**Benjamin E. Tannen**

btannen@sidley.com

SIDLEY AUSTIN LLP

1501 K Street, N.W.

Washington, D.C. 20005

Telephone: (202) 736-8000

Facsimile: (202) 736-8711

Attorneys for Intervenor-Defendants

National Association of Manufacturers

American Fuel & Petrochemical Manufacturers

American Petroleum Institute

**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION**

**KELSEY CASCADIA ROSE JULIANA, et al.,**

Plaintiffs,

**v.**

**UNITED STATES OF AMERICA, et al.,**

Defendants.

---

Case No. 6:15-cv-01517-TC

**INTERVENOR-DEFENDANTS'  
MOTION FOR CERTIFICATION OF  
ORDER FOR INTERLOCUTORY  
APPEAL**

Expedited Hearing Requested

## MOTION FOR CERTIFICATION

Intervenor-Defendants the National Association of Manufacturers, American Fuel & Petrochemical Manufacturers, and American Petroleum Institute (collectively, “the intervenor-defendants”) respectfully move the Court to certify its November 10, 2016 Opinion and Order (“Order”) for interlocutory appeal pursuant to 28 U.S.C. § 1292(b) due to its holding on the political question doctrine. *See* Dkt. 83. Specifically, the intervenor-defendants request that the Court certify the following question for interlocutory appeal:

Whether the political question doctrine bars the plaintiffs’ claims that the federal government has violated their constitutional rights through alleged action or inaction concerning climate change for which the plaintiffs request wide-ranging injunctive relief that would reshape the United States’ climate change and energy policies without legislative or statutory authority.

Pursuant to Local Rule 7-1, the intervenor-defendants have conferred with counsel for both the federal defendants and the plaintiffs regarding this motion, and have been advised that the federal defendants support the intervenor-defendants’ motion for certification of issues for interlocutory appeal while the plaintiffs oppose this motion.

As discussed in the supporting memorandum of law, the Order satisfies the requirements of 28 U.S.C. § 1292(b) because its holding that the political question doctrine does not bar the plaintiffs’ claims is “a controlling question of law.” *Id.* Second, “there is substantial ground for difference of opinion” concerning whether the political question doctrine bars the plaintiffs’ claims. *Id.* Finally, resolution of this legal issue will likely “materially advance the ultimate termination of th[is] litigation.” *Id.*

The intervenor-defendants join the federal defendants’ Motion to Certify Order for Interlocutory Appeal, Dkt. 120, 120-1, including their request for expedited review of the motions for interlocutory appeal. The intervenor-defendants also join the federal defendants’

Motion to Stay Litigation, Dkt. 121.

WHEREFORE, the intervenor-defendants respectfully request that their motion for certification be granted.

DATED this 10th day of March 2017.

MILLER NASH GRAHAM & DUNN LLP

/s/ C. Marie Eckert

C. Marie Eckert, OSB No. 883490

marie.eckert@millernash.com

Suzanne C. Lacampagne, OSB No. 951705

suzanne.lacampagne@millernash.com

3400 U.S. Bancorp Tower

111 S.W. Fifth Avenue

Portland, Oregon 97204

Telephone: (503) 224-5858

SIDLEY AUSTIN LLP

/s/ Frank R. Volpe

Frank R. Volpe

fvolpe@sidley.com

Benjamin E. Tannen

btannen@sidley.com

1501 K Street, N.W.

Washington, D.C. 20005

Telephone: (202) 736-8000

*Attorneys for Intervenor-Defendants  
National Association of Manufacturers,  
American Fuel & Petrochemical Manufacturers,  
and American Petroleum Institute*

I hereby certify that I served the foregoing Motion for Certification of Order for Interlocutory Appeal on:

Julia A. Olson  
Wild Earth Advocates  
1216 Lincoln Street  
Eugene, Oregon 97401  
E-mail: juliaaolson@gmail.com

*Attorney for Plaintiffs*

Philip L. Gregory  
Cotchett, Pitre & McCarthy, LLP  
840 Malcolm Road  
Burlingame, California 94010  
E-mail: pgregory@cpmlegal.com

*Attorney for Plaintiffs*

Charles M. Tebbutt  
Law Offices of Charles M. Tebbutt, P.C.  
941 Lawrence  
Eugene, Oregon 97401  
E-mail: charlie@tebbuttlaw.com

*Attorney for Amici Curiae Global Catholic  
Climate Movement and Leadership Council  
of Women Religious*

Daniel M. Galpern  
Law Offices of Daniel M. Galpern  
1641 Oak Street  
Eugene, Oregon 97401  
E-mail: dan.galpern@gmail.com

*Attorney for Plaintiffs*

Sean C. Duffy  
United States Department of Justice  
Environment & Natural Resources Division  
Natural Resources Section  
P.O. Box 7611  
Washington, D.C. 20044  
E-mail: sean.c.duffy@usdoj.gov

*Attorney for Defendants*

Michelle A. Blackwell  
Blackwell Law PC  
P.O. Box 10326  
Eugene, Oregon 97440  
E-mail: mblackwell@blackwell.law

*Attorney for Amicus Curiae John Davidson*

Travis Stephen Eiva  
Zemper Eiva Law  
101 E. Broadway, Suite 303  
Eugene, Oregon 97401  
E-mail: [travis@zempereiva.com](mailto:travis@zempereiva.com)

*Attorney for Amici League of Women  
Voters of the United States/League of  
Women Voters of Oregon*

by the following indicated method or methods on the date set forth below:



**CM/ECF system transmission.**

DATED this 10th day of March 2017.

/s/ Benjamin E. Tannen

Benjamin E. Tannen

*Of Attorneys for Intervenor-Defendants  
National Association of Manufacturers,  
American Fuel & Petrochemical  
Manufacturers, and American Petroleum  
Institute*